

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

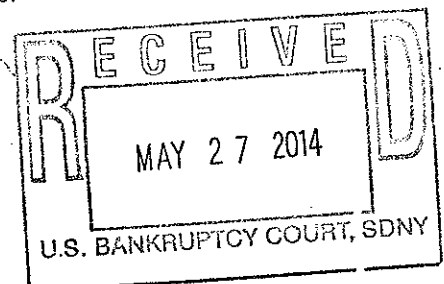
IN RE:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL LLC, et al.,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered

**RESPONSE TO DEBTOR'S OBJECTION TO CLAIM NO. 4702**

COMES NOW Tomas Diaz ("Mr. Diaz"), and files this Response to the Debtor's Objection to Claim No. 4702, and states as follows:

**FACTUAL BACKGROUND**

1. On April 17, 2006, Mr. Diaz obtained a loan modification with Platinum Capital Group, refinancing his homestead property located at 5200 SW 132<sup>nd</sup> Avenue, Miami, Florida 33175, loan No. 10500352, in the amount of \$1,000,000.00 paying \$400,000.00 in consideration to Platinum Capital Group. Thus, retaining \$400,000 in equity of such homestead property with Platinum Capital Group.
2. On October 26, 2006, Residential Funding Company, LLC ("RFC"), assigned this mortgage to Deutsche Bank Trust Company Americas Trustee ("Deutsche Bank Trust"), RFC loan No. 10624849.
3. On April 30, 2007, RFC filed an affidavit of a lost note, whereas a photocopy of Note was attached to the Affidavit.
4. On June 1<sup>st</sup>, 2007, Deutsche Bank Trust, initiated a mortgage foreclosure lawsuit against Mr. Diaz, case No. 2007-16754-CA-01, and failed to provide original Promissory Note, bearing no proper signatures.



5. On August 19<sup>th</sup>, 2010, Mr. Diaz recorded Affidavit of Title, stating the homestead property is "under investigation due of possible Fraud on the Plaintiff's side Rule 60.B Rule 9 B" and cannot be sold or tampered due to the fact that Plaintiff (Deutsche Bank Trust) did not present the original promissory note.
6. On March 12, 2008 Deutsche Bank Trust sold this loan to Aurora Loan Servicing, LLC.
7. On July 1, 2012, Aurora Loan Servicing LLC sold this mortgage to Nationstar Mortgage LLC. also on July 15 2012 on BEHALF OF DEUTSCHE BANK..
8. In August 2012, Mr. Diaz filed claim with Department of the Treasury of Internal Revenue Service, claim No. 2012-007551 (RALI Series 2006-QO6 Trust – Series) due to the fraudulent actions of RFC and the assignments of mortgage securing his homestead property.
9. Claim No. 2012-007551 is under investigation of Whistleblower's Office, IRS.
10. On October 28<sup>th</sup>, 2013, Mortgage Electronic Registration Systems, Inc., as nominee for Platinum Capital Group ("MERS"), its successors and assigns, assigned this mortgage to Deutsche Bank Trust, and recorded it on October 29<sup>th</sup>, 2013. ON JULY 2013 MY COUNSEL HAS DEFENDANTS MOTION TO VACATE.
11. Currently, Mr. Diaz's homestead property is valued at \$568,962.00 according to Miami Dade Property Appraiser.

## **LEGAL BASIS FOR CLAIM NO. 4702**

### **Standard of Review**

A "creditor . . . may file a proof of claim" in order to claim interest in Debtor's Bankruptcy estate. 11 U.S.C. § 501(a). Such a claim constitutes a prima facie evidence of the validity and the amount of the claim. Fed R. Bankr. 3001 (f); 11 U.S.C. 502(a). Such provisions establish that a claim is allowed unless the debtor files an objection. 11 U.S.C. § 502(a). Consequently, the claimant has a burden of proof demonstrating the validity of his claim. See generally *In Re Oneida Ltd.*, 400 B.R. 384, 389 (Bankr. S.D.N.Y. 2009); *In Re Adelphia Commc'ns Corp.*, Case No. 02-41729 (REG), 2007 Bankr. LEXIS 660, at \*15 (Bankr. S.D.N.Y. Feb 20, 2007); *In Re Rockefeller Ctr. Props.*, 272 B.R. 524, 539 \*Bankr. S.D.N.Y. 2000).

### **Analysis**

As per all the recorded assignments and purchases of the mortgage in question, there is no proof Mr. Diaz's loan was transferred, sold or assigned properly. (¶¶ 1-7).<sup>1</sup> There is a reasonable question as to how MERS assigned the mortgage to Deutsche Bank Trust not having a legal right or title to do so. (¶ 10). Additionally, RFC failed to provide the original Promissory Note. (¶ 3). Also, Nationstar Mortgage, LLC, failed to provide the original Promissory Note. (¶ 4). Moreover, their photocopy did not comply with the judicial foreclosure action requirements as to a true and correct copy of such note. (¶ 3-5).

Currently, there is an investigation by IRS office as to the tax consequences of the improper assignments and transfers of Mr. Diaz's mortgage, and Debtor's liability as to

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<sup>1</sup> References to paragraphs of factual background will be referred as (¶ #).

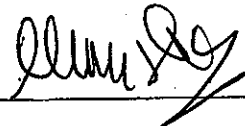
any and all tax deficiency in this matter. (§§ 8, 9). Therefore, it will be prejudicial to Mr. Diaz to disallow and expunge his claim in the amount of \$400,000 as a secured claim under the Bankruptcy Code.

Moreover, due to the improper assignments and transfers of Mr. Diaz's mortgage, Debtor might still have equity in Mr. Diaz's homestead property. Mr. Diaz made a payment of \$400,000.00 to refinance this homestead property. (§ 1). The property is currently valued at \$568,962 according to Miami Dade Property Appraiser. (§ 11). Analogous to a relief from an automatic stay procedure by a secured creditor, Mr. Diaz should be protected by Bankruptcy Code as to his secured claim. 11 U.S.C. 362. Mr. Diaz, as a secured creditor of Debtor, is considered oversecured creditor due to the fact that the collateral is valued higher than the debt, and is entitled to the protection, including post-petition interest. *United Savings Ass. of Texas v. Timbers of Inwood Forest*, 484 U.S. 365 (1988). Consequently, if such creditor's protection is adequate in a relief from an automatic stay procedure having a higher standard of review, his claim may not be disallowed and expunged.

Currently, due to the improper or fraudulent assignments of this mortgage, Mr. Diaz is unable to refinance, sell or otherwise transfer the mortgage and the property, thus preventing him from exercising his legal rights as the owner of his homestead property.

Thus, Mr. Diaz respectfully requests this Honorable Court to allow his proof of claim, pay back \$400,000, reduce the principal on such loan, and other relief Mr. Diaz is entitled to.

Date: May 21<sup>st</sup>, 2014

  
\_\_\_\_\_  
Tomas Diaz

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this response was send on this 21<sup>st</sup>  
day of May, 2014 upon all interested parties via email or regular U.S. Mail as provided  
in the Service List Attached.

Date: May 21<sup>st</sup>, 2014



Tomas Diaz

PRO SE APPELLANT / CREDITOR  
5200 SW 122 AVE  
MIAMI FL 33175  
305-2445159  
MASTERRICAISO@YAHOO.COM

Paragraph 1

MIN: 1000866-0010500352-1

Loan Number: 10500352

## ADJUSTABLE RATE NOTE

THIS NOTE CONTAINS PROVISIONS THAT WILL CHANGE THE INTEREST RATE AND THE MONTHLY PAYMENT. THERE MAY BE A LIMIT ON THE AMOUNT THAT THE MONTHLY PAYMENT CAN INCREASE. THE PRINCIPAL AMOUNT TO REPAY COULD BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE LIMIT STATED IN THIS NOTE.

APRIL 27, 2006  
(Date)

IRVINE  
(City)

CALIFORNIA  
(State)

5200 SOUTHWEST 132ND AVENUE, MIAMI, FLORIDA 33175  
(Property Address)

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 1,000,000.00 (this amount is called "Principal"), plus interest, to the order of Lender. Lender is PLATINUM CAPITAL GROUP, A CALIFORNIA CORPORATION.

I will make all payments under this Note in the form of cash, check or money order. I understand that Lender may transfer this Note. Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

### 2. INTEREST

#### (A) Interest Rate

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 1.500 %. The interest rate I will pay may change.

The interest rate specified by this Section 2 is the rate I will pay before and after any default described in Section 7(B) of this Note.

#### (B) Interest Rate Change Dates

The interest rate I will pay may change on the 1st day of JULY, 2006, and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date.

#### (C) Interest Rate Limit

My interest rate will never be greater than 9.950 %.

#### (D) Index

Beginning with the first Interest Rate Change Date, my adjustable interest rate will be based on an Index. The "Index" is the "Twelve-Month Average" of the annual yields on actively traded United States Treasury Securities adjusted to a constant maturity of one year as published by the Federal Reserve Board in the Federal Reserve Statistical Release entitled "Selected Interest Rates (A.15)" (the "Monthly Yields"). The Twelve Month Average is determined by adding together the Monthly Yields for the most recently available twelve months and dividing by 12. The most recent Index figure available as of the date 15 days before each Interest Rate Change Date is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

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**(B) Calculation of Interest Rate Changes**

Before each Interest Rate Change Date, the Note Holder will calculate the new interest rate by adding **THREE AND 400/1000** percentage point(s) ( **3.400 %**) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limit stated in Section 3(C) above, the result of this addition will be the new interest rate until the next Interest Rate Change Date.

**3. PAYMENTS**

**(A) Time and Place of Payments**

I will pay principal and interest by making a payment every month.

I will make my monthly payments on the 1st day of each month beginning on **JULY 1, 2006**. I will make these payments every month until I have paid all the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on **JUNE 1, 2036**, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at **17101 ARMSTRONG AVENUE SUITE, 200, IRVINE, CALIFORNIA 92614**

or at a different place if required by the Note Holder.

**(B) Amount of My Initial Monthly Payments**

Each of my initial monthly payments will be in the amount of **U.S. \$ 3,451.20**. This amount may change.

**(C) Payment Change Dates**

My monthly payment may change as required by Section 3(B) below beginning on the 1st day of **JULY, 2007**, and on that day every 12th month thereafter. Each of these dates is called a "Payment Change Date." My monthly payment also will change at any time Section 3(F) or 3(G) below requires me to pay a different monthly payment.

I will pay the amount of my new monthly payment each month beginning on each Payment Change Date as provided in Section 3(F) or 3(G) below.

**(D) Calculation of Monthly Payment Changes**

Before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Payment Change Date in full on the Maturity Date in substantially equal installments at the interest rate effective during the month preceding the Payment Change Date. The result of this calculation is called the "Full Payment." Unless Section 3(F) or 3(G) below requires me to pay a different amount, my new monthly payment will be in the amount of the Full Payment, except that my new monthly payment will be limited to an amount that will not be more than 7.5% greater than the amount of my last monthly payment due before the Payment Change Date.

**(E) Addition to My Unpaid Principal**

My monthly payment could be less than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid principal I owe at the monthly payment date in full on the Maturity Date in substantially equal payments. If so, each month that my monthly payment is less than the interest portion, the Note Holder will subtract the amount of my monthly payment from the amount of the interest portion and will add the difference to my unpaid principal. The Note Holder also will add interest on the amount of this difference to my unpaid principal each month. The interest rate on the interest added to Principal will be the rate required by Section 2 above.

**(F) Limit on My Unpaid Principal; Increased Monthly Payment**

The unpaid principal can never exceed a maximum amount equal to **115.000 %** of the Principal amount I originally borrowed. Because of my paying only limited monthly payments, the addition of unpaid interest to my unpaid principal under Section 3(E) above could cause my unpaid principal to exceed that maximum amount when interest rates increase. In that event, on the date that my paying my monthly payment would cause me to exceed that limit, I will instead pay a new monthly payment. The new monthly payment will be in an amount that would be

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sufficient to repay my then unpaid principal in full on the Maturity Date in substantially equal installments at the interest rate effective during the preceding month.

**(G) Required Full Payment**

On the fifth Payment Change Date and on each succeeding fifth Payment Change Date thereafter, I will begin paying the Full Payment as my monthly payment until my monthly payment changes again. I also will begin paying the Full Payment as my monthly payment on the final Payment Change Date.

**4. NOTICE OF CHANGES**

The Note Holder will deliver or mail to me a notice of any changes in the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

**5. BORROWER'S RIGHT TO PREPAY \*\* See attached Prepayment Note Addendum.**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Payment Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

**6. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**7. BORROWER'S FAILURE TO PAY AS REQUIRED**

**(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal that has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

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**(6) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees.

**8. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**9. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all the amounts owed under this Note.

**10. WAIVERS**

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**11. UNIFORM SECURED NOTE**

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible issues that might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of these conditions read as follows:

**Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption

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agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

## 12. DOCUMENTARY TAX

The state documentary tax due on this Note has been paid on the Mortgage securing this indebtedness.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

  
\_\_\_\_\_  
THOMAS DIAZ (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

(Sign Original Only)

PAYMENT OPTION MULTISTATE ADJUSTABLE RATE NOTE  
RPG FORM 3524 (10/05) MODIFIED INSTRUMENT  
For Use in FLORIDA Only

Page 5 of 5

DocuSign Corporation 470.649.1303  
www.docusign.com

PAY TO THE ORDER OF  
RESIDENTIAL FUNDING CORPORATION

PAY TO THE ORDER OF  
Dedache Bank Trust Company America as Trustee  
WITHOUT RECOURSE  
Residential Funding Corporation

By Judy Faber  
Judy Faber, Vice President

RECORD AND  
RETURN TO  
WATSON TITLE & INSURANCE, INC.  
1800 N.W. 44th ST.  
SUITE 120  
FT. LAUDERDALE, FL 33309

TRI-COUNTY  
WILL CALL  
WATSON TITLE & INSURANCE, INC.

CFN 2007R0084035  
OR # 25305 Pg 6541 (1st)  
RECORDED 01/26/2007 08:40:02  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA  
LAST PAGE

Paragraph 2.

CORPORATION ASSIGNMENT of MORTGAGE

Return To:  
RESIDENTIAL FUNDING COMPANY, LLC  
One Meridian Crossings  
Minneapolis, MN 55423

MIN: 10006600105003521 MERS Phone: 1-888-679-6377

RFC Loan Number: 10624449

Seller Loan Number: 10500352

FOR VALUE RECEIVED, Mortgage Electronic Registration Systems, Inc. ("MERS")  
AS NOMINEE FOR PLATINUM CAPITAL GROUP

the undersigned hereby grants, assigns and transfers to

Deutsche Bank Trust Company Americas as Trustee

3 Park Plaza, 16th Floor, Irvine, CA 92714-8905

all beneficial interest under that certain Mortgage dated 04/27/2006  
executed by THOMAS DIAZ

TO/FOR: THE UNDERSIGNED

and recorded in Book 24526 on Page 3829 as Instrument No. \_\_\_\_\_ on 5/15/2006 of official  
Records in the County Recorder's Office of MIAMI-DADE County, Florida.

LEGAL: AS IN MORTGAGE REFERENCED HEREIN

MORTGAGE AMOUNT: \$1,000,000.00

PROPERTY ADDRESS: 5200 SOUTHWEST 122ND AVENUE MIAMI, FL 33175

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest,  
and all rights accrued or to accrue under said Mortgage.

Mortgage Electronic Registration Systems, Inc. ("MERS")

STATE OF  
COUNTY OF

(Minnesota)  
(Hennepin)

BY: Matt Favorite  
NAME: Matt Favorite  
TITLE: Vice President

On 10/26/2006 before me, the undersigned, a Notary Public in and for said State personally appeared Matt Favorite, Vice  
President of Mortgage Electronic Registration Systems, Inc. ("MERS") personally known to me to be the person whose  
name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized  
capacity, and that by his/her signature on the instrument the entity upon behalf of which the person acted, executed the  
instrument. WITNESS my hand and official seal.

Karen E. Steffensen  
Notary Public in and for said State



Prepared 10/26/2006 by Matt Favorite, Residential  
Funding Company, LLC, One Meridian Crossings,  
Suite 100, Minneapolis, MN 55423, (952) 979-4000.

06-07296

LOST NOTE AFFIDAVIT

**AFFIDAVIT OF LOST NOTE**

(Photocopy of Note Attached)

Loan Number 10624849

STATE OF MINNESOTA

COUNTY OF HENNEPIN

On this 30 day of May 2007 before me appeared S. Seidel, Assistant Secretary who being first duly sworn, does depose and say that

Residential Funding Company, LLC

Was the holder of a certain NOTE dated April 27, 2006 in the amount of One Million Dollars and 0/100 (\$1,000,000.00) made by THOMAS DIAZ to Platinum Capital Group. and does further depose and say that said NOTE, a copy of which is attached as a true and correct photocopy of the front and back and any and all endorsements, has either been lost, misplaced, or destroyed and can not be produced.

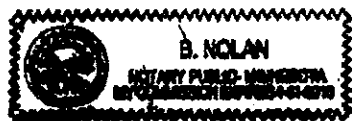
**IN THE EVENT THE ORIGINAL NOTE IS HEREAFTER LOCATED, RESIDENTIAL FUNDING COMPANY, LLC SHALL DELIVER IT TO THE APPROPRIATE CUSTODIAN**

Residential Funding Company, LLC

By: S. Seidel

S. Seidel  
Assistant Secretary

On 5-30-07 before me, B. Nolan, personally appeared S. Seidel ☒ personally known to me - ☐ or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signatures on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.



Witness my hand and official seal.

B. Nolan

Paragraph 3

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT, IN  
AND FOR MIAMI-DADE COUNTY, FLORIDA  
GENERAL JURISDICTION DIVISION  
CASE NO: 2007-16754-CA

DEUTSCHE BANK TRUST COMPANY AMERICAS,  
AS TRUSTEE

PLAINTIFF

VS.

TOMAS DIAZ, ET AL

DEFENDANT(S)

Tomas DIAZ  
5200 SW 122A  
33175

Paragraph 4.  
Paragraph 6

**EX PARTE MOTION TO RESET FORECLOSURE SALE**

Plaintiff, by and through its undersigned counsel, hereby files this Ex Parte Motion to Reset Foreclosure Sale and in support thereof states:

1. The Plaintiff filed its Complaint on JUNE 1, 2007.
  2. The Summary Final Judgment was entered on JANUARY 8, 2008 and the Foreclosure Sale was scheduled for MARCH 12, 2008.
  3. On or about MARCH 12, 2008, the Plaintiff voluntarily canceled the foreclosure sale. DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE sold the loan to AURORA LOAN SERVICING, LLC.
  4. No settlement has been achieved and the Plaintiff now elects to proceed with the foreclosure sale.
  5. Plaintiff request to take title in the name of AURORA LOAN SERVICING, LLC.
- WHEREFORE, Plaintiff requests that this Court enter an Order to Reset the Foreclosure Sale in this Cause.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Ex Parte Motion to Reset Sale was mailed this 9 day of May, 2008 to:

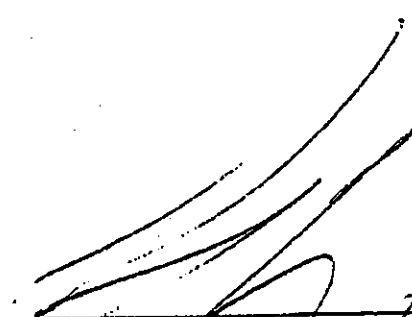
RANDALL NORDLUND, ESQUIRE  
ATTORNEY FOR TOMAS DIAZ  
ONE SE 3RD AVENUE  
SUNTRUST INTERNATIONAL CENTER  
SUITE 1900  
MIAMI, FL 33131

UNKNOWN SPOUSE OF TOMAS DIAZ  
10430 SW 58TH ST  
MIAMI, FL 33131

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
1595 SPRING HILL ROAD, SUITE 310  
VIENNA, VA 22182

BENEFICIAL FLORIDA, INC.  
C/O CT CORPORATION SYSTEM, REGISTERED AGENT  
1200 S. PINE ISLAND ROAD  
PLANTATION, FL 33324

NELSON QUEVEDO  
ANA VICKY QUEVEDO  
1415 GARCIA AVENUE  
CORAL GABLES, FL 33134

  
MATTHEW L. KAHL  
Law Offices of David J. Stern, P.A.  
Attorney for Plaintiff  
900 South Pine Island Road Suite 400  
Plantation, FL 33324-3920  
(954) 233-8000  
Florida Bar #: 766801

CLAIM # 4702  
IN THE CIRCUIT COURT OF THE 11TH JUDICIAL  
CIRCUIT, IN AND FOR MIAMI-DADE COUNTY,  
FLORIDA  
GENERAL JURISDICTION DIVISION  
CASE NO: 2007-16754-CA

DEUTSCHE BANK TRUST COMPANY  
AMERICAS, AS TRUSTEE  
PLAINTIFF  
VS.

TOMAS DIAZ, ET AL  
DEFENDANT(S)

**ORDER GRANTING PLAINTIFF'S EX PARTE MOTION TO RESET FORECLOSURE SALE**

THIS CAUSE, having come before the Court upon Plaintiff's Ex Parte Motion to Reset Foreclosure Sale, and the same having been considered, and the Court being otherwise fully advised in the premises, it is hereby

**ORDERED AND ADJUDGED** as follows:

1. That Plaintiff's Motion to Reset Foreclosure Sale be and the same is hereby GRANTED.
2. That the foreclosure sale in this cause is reset for August 1, 2008 in Room 908 of the MIAMI-DADE County Courthouse, at 11:00 a.m. at 140 W. FLAGLER STREET, MIAMI, Florida.
3. Plaintiff request to take title in the name of AURORA LOAN SERVICING, LLC *granted*.

DONE AND ORDERED in Chambers at MIAMI-DADE County, MIAMI, this \_\_\_\_ day of \_\_\_\_\_, 2008.

*Margarita Esquivel*  
Margarita Esquivel, Circuit Court Judge

Copies to:

LAW OFFICE OF DAVID J. STERN, P.A.  
900 SOUTH PINE ISLAND ROAD, SUITE 400  
PLANTATION, FL 33324-3920

RANDALL NORDLUND, ESQUIRE  
ATTORNEY FOR TOMAS DIAZ  
ONE SE 3RD AVENUE  
SUNTRUST INTERNATIONAL CENTER  
SUITE 1980  
MIAMI, FL 33131

UNKNOWN SPOUSE OF TOMAS DIAZ  
10420 SW 58TH ST  
MIAMI, FL 33155

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
1595 SPRING HILL ROAD, SUITE 310  
VIENNA, VA 22182

BENEFICIAL FLORIDA, INC.  
C/O CT CORPORATION SYSTEM, REGISTERED AGENT  
1200 S. PINE ISLAND ROAD  
PLANTATION, FL 33324

NELSON QUEVEDO  
ANA VICKY QUEVEDO  
1415 GARCIA AVENUE  
CORAL GABLES, FL 33134

Book 26500 Page 1777 Total Pages 1  
CFN # 20080619337 Case # 07-016754-CA-01  
Rec. Date 07/29/2008 Arleneg

Case #: 07-88388(HCNW)

EXHIBIT  
"C"

R/C  
B-400017

**AFFIDAVIT OF TITLE**

**STATE OF FLORIDA**

**GENERAL JURISDICTION DIVISION**

**COUNTY OF MIAMI-DADE**

**CASE NUMBER: 2007-16754-CA-01**

Before me, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared Tomas Diaz, who being first duly sworn, hereby deposes and says:

1. The Property located 5200 SW 122 Avenue, Miami, Florida 33175 legally described as:

Tract 226, BIRD ROAD FARMSITES, in section 24, Township 54 South Range 39 East according to the Plat thereof, in Plat Book 46, at Page 37, of the Public Records of Miami-Dade County, Florida.

The property also has a Land Patent Issued on September 28, 1850 and updated on July 16, 2010. I hold the Land Patent in my possession and will allow anyone of legal interest to view the original Land Patent.

- A.- This property in questions is "under investigation due of possible Fraud on the Plaintiff's side Rule 60.B Rule 9 B " can not be sold or tampered by any Statutory judicial action,, buyers, sellers, title companies, attorneys and banks **BEWARE** that civil actions as well as criminal actions can and will be brought against you to protect the property

B. This Plaintiff has not done. Plaintiff has claimed to file the original promissory note. However, it "bears an undated endorsement that appears to be a carbon/toner reproduction, not one signed in color ink." Paragraph 17 of affidavit by Gregory Clark. Moreover, Plaintiff "has not submitted admissible evidence in support of its authority or power." Paragraph 18 of affidavit by Gregory Clark

C.- At the same time we advise EVERYONE the inferior court ignored such evidence.

In Witness Whereof, the undersigned has duly executed this Affidavit as of the 19 day of August, 2010.

  
Tomas Diaz

State of Florida

County of Miami- Dade

The foregoing instrument was acknowledged before me this 19 day of August, 2010, by Tomas Diaz , who is personally known.

  
Notary Public

(seal



XIOMARA G. ENDARA  
MY COMMISSION # DD 680964  
EXPIRES: June 3, 2011  
Bonded Thru Budget Notary Services

  
Prepare by: Tomas Diaz

5200 SW 122 Avenue, Miami FL 33175

LEILA JOHNSON

FILED FOR  
2010 AUG 20 11  
CLERK OF  
MIAMI-DADE  
COUNTY  
FLORIDA

Paragraph 5.



REPRESENTATION OF PRINTED DOCUMENT



July 15, 2012

Paragraph 7

63529 0086377

TOMAS DIAZ  
3876 SW 112TH AVE 137  
JACOB FRANZ DYCK  
MIAMI FL 33165

New Nationstar Loan Number: 0599454303

**NOTICE OF ASSIGNMENT, SALE, OR TRANSFER OF SERVICING RIGHTS**

Dear Tomas Diaz:

You are hereby notified that the servicing of your mortgage loan, that is, the right to collect payments from you, is being assigned, sold or transferred from AURORA LOAN SERVICES LLC to Nationstar Mortgage LLC, effective 07/01/12.

The assignment, sale or transfer of the servicing of the mortgage loan does not affect any term or condition of the mortgage instruments, other than terms directly related to the servicing of your loan.

Except in limited circumstances, the law requires Nationstar Mortgage send you this notice no later than 15 days after the effective date of the transfer.

Your new servicer is Nationstar Mortgage LLC.

Nationstar Mortgage's business address is:

Nationstar Mortgage LLC  
350 Highland Drive  
Lewisville, Texas 75067  
[www.MvNationstarMTG.com](http://www.MvNationstarMTG.com)

Nationstar Mortgage toll free number is 1-888-850-9398. If you have any questions relating to the transfer of servicing to Nationstar Mortgage, call 1-888-850-9398 between 8 a.m. and 6 p.m. on the following days Monday - Thursday, 8 a.m. and 5 p.m. on Friday, or visit us anytime at [www.MvNationstarMTG.com](http://www.MvNationstarMTG.com).

The date that Nationstar Mortgage will start accepting payments from you is 07/01/12. You can pay online via the Nationstar Mortgage website at [www.MvNationstarMTG.com](http://www.MvNationstarMTG.com), or you can send all payments due on or after that date to:

Nationstar Mortgage LLC  
PO Box 630763  
Dallas, Texas 75265

Your mortgage life insurance, disability insurance and/or other optional products will not continue. If you wish to retain optional products, you will need to contact your current optional product/service provider.

Enclosed is your Welcome Letter which includes a payment coupon with detailed loan information.

You should also be aware of the following information, which is set out in more detail in Section 6 of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2603):

During the 60-day period following the effective date of the transfer of the loan servicing, a loan payment received by your old servicer before its due date may not be treated by the new loan servicer as late, and a late fee may not be imposed on you.

Section 6 of RESPA (12 U.S.C. 2603) gives you certain consumer rights. If you send a "qualified written request" to your loan servicer concerning the servicing of your loan, your servicer must provide you with a written acknowledgment within 5 Business Days of receipt of your request. A "qualified written request" is a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, which includes your name and account number, and your reasons for the request. If you want to send a "qualified written request" regarding the servicing of your loan, it must be sent to this address:

Nationstar Mortgage LLC  
Attention Research Department  
350 Highland Drive  
Lewisville, Texas 75067  
[www.MvNationstarMTG.com](http://www.MvNationstarMTG.com)

Not later than 30 Business Days after receiving your request, your servicer must make any appropriate corrections to your account, and must provide you with a written clarification regarding any dispute. During this 60-Business Day period, your servicer may not provide information to a consumer reporting agency concerning any overdue payment related to such period or qualified written request. However, this does not prevent the servicer from initiating foreclosure if proper grounds exist under the mortgage documents.

A Business Day is a day on which the offices of the business are open to the public for carrying on substantially all of its business functions.

Section 6 of RESPA also provides for damages and costs for individuals or classes of individuals in circumstances where servicers are shown to have violated the requirements of that Section. You should seek legal advice if you believe your rights have been violated.

**Important Loan Transfer "Home Affordable Modification Program" Information**

Home Affordable Modification Program: If you are currently participating in (or being considered for) a loan modification program, we will be transferring all your documentation to the new servicer. Until the transfer date, you should continue to make your payments (e.g., trial payments if attempting to qualify for a modification under the Home Affordable Modification Program) to Aurora Loan Services LLC. After transfer, you should make all payments to Nationstar until such time that you are provided additional direction. Decisions regarding qualification will be made by Nationstar. All information regarding other loss mitigation activities (forbearance agreements, short sales, refinances and deed-in-lieu of foreclosure) will be forwarded to Nationstar for processing. Please be advised that this transfer may extend the time needed for a final decision.

Sincerely,  
Nationstar Mortgage LLC



INTERNET REPRINT

**Subject:** Your Mortgage Transfer - Aurora Bank to Nationstar Mortgage  
**From:** Aurora Bank FSB (AuroraBankFSB@venture-mail.com)  
**To:** masterpicasso@yahoo.com;  
**Date:** Tuesday, June 26, 2012 12:03 PM

To view this email as a web page, go [here](#).



### The Transfer of Your Mortgage to Nationstar Mortgage

By now you should have received a letter advising the servicing of your loan number account ending in 3252 is moving from Aurora Bank FSB to Nationstar Mortgage LLC effective 07/01/2012. It has been Aurora Bank's pleasure to service your mortgage needs. We want to make the transfer of your loan to Nationstar Mortgage as smooth as possible. To this end, the following is what you can expect over the next 30 days.

- **Loan Terms:** Your original loan terms will not change as a result of this transfer
- **Loan Modification or Short Sale:** Nationstar will pick up where we left off and will have all of your documentation
- **Escrowed Loans:** If your loan is escrowed and you have property taxes or homeowners insurance due during this transfer, rest assured it will be paid on time
- **Already sent your payment to us?** We will ensure that it is provided to Nationstar and they will apply it as of the day ~~you~~ received it
- **Monthly Auto Draft:** This will transfer to Nationstar. You may notice a slight delay, up to 2 weeks, in the processing of your first auto draft with Nationstar. Please be assured you will not be penalized for this delay and it will not reflect negatively on your account
- **Welcome Call:** You will receive a welcome package in the mail and a welcome call the week of 07/10/2012 from Nationstar to help answer your questions

The Nationstar website is available 24/7. Visit [NationstarMTG.com](http://NationstarMTG.com) and use the "[New to Nationstar?](#)" link for answers to your mortgage transfer questions.

Your loan information will be accessible online as of 07/10/2012. Visit the [Customer Sign In](#) page to set up your profile. Additionally, as of 07/11/2012 you can call Nationstar with any questions; the Nationstar Customer Service team will have your account information by this date as will the automated phone system

Please see the servicing transfer notice you received in the mail for more information about the transfer, including your right to submit a qualified written request.

Due to the number of loans transferring and the level of personal service Nationstar provides each customer, they expect longer than normal telephone wait time. Your patience is appreciated and you may wish to call during lower call volume times - early mornings or late afternoons Tuesday - Thursday.

Thank you again for your business.



Equal Housing Lender : © 2012 myAuroraLoan, Aurora Bank FSB



July 15, 2012

PARAGRAPH 7

63529 0006577

RE: Nationstar Mortgage LLC Loan Number: 0599454303

TOMAS DIAZ  
3876 SW 112TH AVE 137  
JACOB FRANZ DYCK  
MIAMI FL 33165

Dear TOMAS DIAZ

Welcome to Nationstar Mortgage!

We look forward to servicing your loan on behalf of DEUTSCHE BANK, TRUSTEE, RALI SERIES 2006-QO6.

- Your total debt at the time of the transfer is \$1,414,207.81. This amount includes your outstanding Unpaid Principal Balance of \$997,206.01, \$380,109.88 in Interest, \$345.12 from Fees, and \$185.00 from expenses paid on your behalf.
- This debt is owed to DEUTSCHE BANK, TRUSTEE, RALI SERIES 2006-QO6, but is being serviced by Nationstar.
- Unless you dispute the validity of this debt, or any portion thereof, in writing within thirty (30) days after receipt of this notice, the debt will be assumed to be valid by Nationstar.
- If you notify Nationstar in writing within this thirty (30) day period that the debt, or any portion thereof, is disputed, Nationstar will obtain verification of the debt and a copy of such verification will be sent to you.

We welcome you to Nationstar Mortgage and look forward to being your mortgage servicer.

Mail written disputes to:  
Nationstar Mortgage LLC  
Attn: Research Department  
350 Highland Drive  
Lewisville, TX 75067

For Customer Service Inquiries, call toll free at 1-888-850-9398.

Sincerely,

Nationstar Mortgage LLC

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.



PARAGRAPH 7C

File No.: C49.0279

The area above this line is for the use of recording official

APN #: 30-4924-001-2322  
Lenders Loan # XXXXXX4303  
MINE: 100086600105003521

MERS Phone: 1-888-679-6377

[REDACTED]

Deutsche Bank Trust Company Americas As Trustee, its successors and assigns ("Assignor"), located at 3 Park Plaza, 16<sup>th</sup> Floor, New York, NY 10022, which is organized and existing under the laws of United States of America, for adequate consideration from [REDACTED] Mortgage LLC ("Assignee"), located at 350 Highland Drive, Louisville, TX 75067, has granted, bargained, sold, assigned, transferred and set over, and by these presents does grant, bargain, sell, transfer and set over unto Assignee the following described Mortgage recorded in the Public Records of Miami-Dade County, State of Florida.

Original Mortgage(s): Tomas Diaz  
Date of Mortgage: 04/27/2006  
Mortgage Recording Date: 05/15/2006  
Book: [REDACTED]

Property Address: 5200 SW 122nd Avenue, Miami, FL 33175  
Legal Description: South one-half of tract 266, of Bird Road Parcels, According to the Plat thereof, recorded in Plat Book 46, at Page 3, of the Public Records of Miami-Dade County, Florida.

Assignor hereby acknowledges that this assignment is being recorded as a formality pursuant to requirements set forth under §701.02, but that such be the intention of the parties herein that delivery of the subject note and mortgage be established as evidenced by electronic or physical delivery, of the note and mortgage and related documents, that such delivery occurred prior to the date of any litigation with respect to the Mortgage and that the delivery date of the Note and Mortgage have been established by the express intention of the parties herein.

This Assignment of Mortgage is made without recourse against Assignor.

IN WITNESS WHEREOF, Assignor has caused these presents to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

IN THE PRESENCE OF:

Deutsche Bank Trust Company Americas As Trustee, its  
successors and assigns

[REDACTED]  
Print Name \_\_\_\_\_  
Witness \_\_\_\_\_

[REDACTED]  
Print Name \_\_\_\_\_  
Assignor \_\_\_\_\_

Print Name \_\_\_\_\_  
Witness \_\_\_\_\_

ACKNOWLEDGMENT:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon the behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the Laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

NATIONSTAR MORTGAGE, LLC,

Plaintiff,

v.

TOMAS DIAZ, et al.,

Defendants.

GENERAL JURISDICTION DIVISION

CASE NUMBER: 07-16754 (CA-10)

*P*  
PARAGRAPH 10

DEFENDANT'S MOTION TO VACATE  
EX PARTE ORDER SCHEDULING FORECLOSURE SALE

Defendant, Tomás Diaz, moves to vacate the order scheduling for August 28 the foreclosure sale of his homestead property submitted *ex parte* by Plaintiff, Nationstar, substituted as Plaintiff *ex parte* without any demonstration of its standing to foreclose Defendant's rights under the subject mortgage.

1. Neither Defendant nor undersigned counsel received any service of this Court's order setting a new foreclosure sale date of August 28. We learned of the new sale date only through the court docket.

2. Plaintiff Nationstar also submitted the proposed order *ex parte* and without notice of any kind. Plaintiff's *ex parte* communications with this Court and *ex parte* submission of a proposed order without hearing or copy or notice to undersigned counsel violates the Rule of Professional Conduct 4-3.5 prohibition against *ex parte* submissions to judges.

3. The attached eCourtesy submission form also mandates that submitting counsel swear or affirm that they sent a copy of the proposed order to opposing counsel.

4. Previous counsel for Plaintiff Nationstar also violated Rule 4-3.5 when they

submitted *ex parte* the motion and proposed order to substitute Nationstar as Plaintiff.

5. The *ex parte* substitution of Plaintiff Nationstar also violates Rule 1.260's mandate for substitution of parties only after notice and hearing. "The motion for substitution . . . , together with the notice of hearing, shall be served on all parties . . . ."

6. This Court's Order to Substitute Party Plaintiff, drafted and submitted *ex parte* by previous counsel for Plaintiff Nationstar, erroneously and without explanation lists Aurora Loan Services, LLC, a nonparty to this action, as Plaintiff and erroneously dictates that Nationstar is substituted in place of the nonparty Aurora as Plaintiff. Previous counsel for Plaintiff submitted that erroneous order of substitution *ex parte* and without any demonstration of Nationstar's standing to proceed to foreclose Defendant's rights.

7. Plaintiff Nationstar's request to proceed with the foreclosure sale violates its substantive obligation to demonstrate its standing to foreclose Defendant's rights under the subject mortgage. Neither this Court nor undersigned counsel nor Plaintiff Nationstar's current counsel has any motion for substitution with an assignment of mortgage. ~~Nationstar has never presented any evidence of its standing to foreclose Defendant's rights under this mortgage.~~

WHEREFORE, Defendant respectfully requests an order (a) vacating the *ex parte* order scheduling the August 28 sale and (b) mandating that Plaintiff Nationstar demonstrate its standing to foreclose Defendant's rights under the mortgage.

**CERTIFICATE OF SERVICE**

I certify that we served a copy of this document by email this 24<sup>th</sup> day of July, 2013 upon Laura Goorland, Esq., Robertson, Anschutz & Schneid, P.L., 6409 Congress Avenue,

Suite 100, Boca Raton, Florida 33487.



RANDALL NORDLUND  
Florida Bar No. 855804  
Nordlund P.A.  
One Flagler, Suite 201  
14 Northeast 1<sup>st</sup> Avenue  
Miami, Florida 33132  
786-454-9871 reception  
305-517-8045 e-fax  
786-282-2800 cell  
nordlund@npa1.com

CFN: 2013085917 BOOK 28833 PAGE 2068  
DATE 10/29/2013 02:20:22 PM  
HARVEY RUVIN, CLERK OF COURT MIAMI-DADE CTY

When Recorded Return To:  
Nationstar Mortgage LLC  
C/O NTC 2100 Alt. 19 North  
Palm Harbor, FL 34683

Paragraph 11.




#### ASSIGNMENT OF MORTGAGE

CONTACT NATIONSTAR MORTGAGE, LLC FOR THIS INSTRUMENT 381 HIGHLAND DRIVE, LEWISVILLE, TX, 75067, TELEPHONE # 469-449-3090, WHICH IS RESPONSIBLE FOR RECEIVING PAYMENTS.

FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR PLATINUM CAPITAL GROUP, ITS SUCCESSORS AND ASSIGNS, WHOSE ADDRESS IS PO BOX 2026, FLINT, MI, 48901, (ASSIGNOR), by these presents does convey, grant, assign, transfer and set over the described Mortgage with all interest secured thereby, all liens, and any rights due or to become due thereon to DEUTSCHE BANK TRUST COMPANY AMERICAS AS TRUSTEE FOR RESIDENTIAL ACCREDIT LOANS, INC PASS THROUGH CERTIFICATES 2006-Q06, WHOSE ADDRESS IS 1761 SAINT ANDREW PLACE, SANTA ANA, CA 92706.

Said Mortgage was made by THOMAS DIAZ and recorded in Official Records of the Clerk of the Circuit Court of MIAMI-DADE County, Florida, in Book 24526, Page 3829, and/or Instrument # 2006R0525334, upon the property situated in said State and County as more fully described in said Mortgage.

Dated this 28th day of October in the year 2013  
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR PLATINUM CAPITAL GROUP, ITS SUCCESSORS AND ASSIGNS

  
NADENE ROMAN  
ASST. SECRETARY

All Authorized Signatories whose signatures appear above are employed by NTC and have reviewed this document and supporting documentation prior to signing.




  
DANIEL THOMPSON  
WITNESS

  
JESSICA SHEETZ  
WITNESS

[REDACTED]





UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK		Claim #4702 Date Filed: 11/14/2012
Name of Debtor: <b>HOMECOMINGS FINANCIAL LLC</b>		Case Number: <b>12-12042 (MG)</b>
<p><small>NOTE: This form should not be used to make a claim for an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) arising after the commencement of the case. A "request" for payment of an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) may be filed pursuant to 11 U.S.C. § 503.</small></p>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>TOMAS DIAZ</b>		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____ <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of document giving particulars. 5. Amount of claim Entitled to Priority under 11 U.S.C. § 507(a). If the amount of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions up to \$11,725* earned within 90 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. § 507(a)(2). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Up to \$2,000 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Taxes or fees owed to governmental units - 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a). Amount entitled to priority: \$ _____ * Amounts are subject to adjustment on 4/1/13 and eve. 3 years thereafter with respect to cases commenced on or after the date of adjustment.
Name and address where notices should be sent: <b>TOMAS DIAZ 5200 SW 122 AVE MIAMI FL 33175</b>		
Telephone number: <b>(305) 244-5159</b>	email: <b>MASTERALASSO@YAHOO.COM</b>	
Name and address where payment should be sent (if different from above): <b>TOMAS DIAZ 5200 SW 122 AVE MIAMI FL 33175</b>		
Telephone number: <b>(305) 244-5159</b>	email: <b>MASTERALASSO@YAHOO.COM</b>	
1. Amount of Claim as of Date Case Filed: \$ <b>400,000.00</b> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <b>MORTGAGE / NOTE DOWN PAYMENT</b> (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: <b>5243</b>	3a. Debtor may have scheduled account as: (See instruction #3a)	3b. Uniform Claim Identifier (optional): (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ <b>1600,000.00</b> Annual Interest Rate <b>7.498</b> % <input type="checkbox"/> Fixed <input checked="" type="checkbox"/> Variable (when case was filed) Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ <b>400,000.00</b> Amount Unsecured: \$ _____		
6. Claims Pursuant to 11 U.S.C. § 503(b)(9): Indicate the amount of your claim arising from the value of any goods received by the Debtor within 30 days before May 14, 2012, the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ <b>0</b> (See instruction #6)		
7. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #7)		
8. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence definition of "redacted". DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DO If the documents are not available, please explain:		
 121204212111400000000003		
9. Signature: (See instruction #9). Check the appropriate box. <input checked="" type="checkbox"/> I am the creditor. <input type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (Attach copy of power of attorney, if any.) (See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.)		
I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: <b>TOMAS DIAZ</b> Title: _____ Company: _____ Address and telephone number (if different from notice address above): _____ Telephone number: <b>(305) 244-5159</b> Email: <b>MASTERALASSO@YAHOO.COM</b> (Date) <b>10/23/12</b> Signature: <i>[Signature]</i>		
Penalties for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 1593 and 1597.		

RECEIVED

NOV 14 2012

KURTZMAN CARSON CONSULTANTS

COURT USE ONLY

Morrison & Foerster LLP, attn.: Gary S. Lee at [g.lee@mofo.com](mailto:g.lee@mofo.com)  
Alexandra Steinberg Barrage at [abarrage@mofo.com](mailto:abarrage@mofo.com)  
Sidley Austin LLP, attn.: Larry Nyhan at [lnyhan@sidley.com](mailto:lnyhan@sidley.com)  
Jessica C. K. Boelter at [jboelter@sidley.com](mailto:jboelter@sidley.com)  
Kirkland and Ellis LLP, attn.: Ray C. Schrock at [rschrock@kirkland.com](mailto:rschrock@kirkland.com)  
Richard M. Cieri at [Richard.cieri@kirkland.com](mailto:Richard.cieri@kirkland.com)  
Stephen E. Hessler at [Stephen.hessler@kirkland.com](mailto:Stephen.hessler@kirkland.com)  
Kramer Levin Naftalis @ Frankel LLP, attn.: Kenneth H. Eckstein at  
[keckstein@kramerlevin.com](mailto:keckstein@kramerlevin.com)  
Douglas H. Mannal at [dmannal@kramerlevin.com](mailto:dmannal@kramerlevin.com)  
Munger, Tolles & Olson LLP, attn.: Seth Goldman at [seth.goldman@mto.com](mailto:seth.goldman@mto.com)  
Thomas Walper at [twalper@mto.com](mailto:twalper@mto.com)

Service Mailing List

ResCap Claims Processing Center  
c/o Kurtzman Carson Cosultants LLC  
2335 Alaska Avenue  
El Segundo, CA 90245

United States Trustee  
33 Whitehall Street  
21<sup>st</sup> Floor  
New York, NY 10004

Judge Martin Glenn  
The United States Bankruptcy Court  
For the Southern District of New York  
One Bowling Green, Room 501  
New York, NY 10004

Kramer Levin Naftallis & Frankel LLP  
1177 Avenue of the Americas  
New York, NY 10005

Morrison & Foerster LLP  
1290 Avenue of the Americas  
New York, NY 10104

AlixPartners LLP  
200 Town Center, Suite 2400  
Southfield, MI 48075

Moelis & Company LLC  
399 Park Avenue  
5<sup>th</sup> Floor  
New York, NY 10022

Curtis, Mallet-Prevost, Colt & Mosle LLP  
101 Park Avenue  
New York, NY 10178-0061

FTI Consulting Inc.  
3 Times Square, 9<sup>th</sup> Floor  
New York, NY 10036

Centerview Partners LLC  
31 West 52<sup>nd</sup> Street, 22<sup>nd</sup> Floor  
New York, NY 10019

Arthur J. Gonzalez Esq.  
New York University School of Law  
40 Washington Square South, 314A  
New York, NY 10012

**THIS IS A NOTICE REGARDING YOUR CLAIM. YOU MUST READ IT  
AND TAKE ACTION IF YOU DISAGREE WITH THE OBJECTION.**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re: )  
 ) Case No. 12-12020 (MG)  
 )  
 RESIDENTIAL CAPITAL, LLC, et al., ) Chapter 11  
 )  
 Debtors. ) Jointly Administered  
 )

**NOTICE OF HEARING ON RESCAP BORROWER CLAIMS TRUST'S  
SIXTY-SECOND OMNIBUS OBJECTION TO CLAIMS  
(NO LIABILITY BORROWER CLAIMS)**

**Tomas Diaz**

Proposed Claim(s) to be Disallowed and Expunged				Reason for Disallowance
Claim No(s); Date Filed	Debtor	Classification	Amount	No Liability - See Exhibit A to proposed form of order
4702 11/14/12	Homecomings Financial, LLC	Administrative Priority	N/A	
		Administrative Secured	N/A	
		Secured	\$400,000.00	
		Priority	N/A	
		General Unsecured	N/A	

PLEASE TAKE NOTICE that, on April 22, 2014, the ResCap Borrower Claims Trust (the "**Trust**"), as successor in interest to the Debtors<sup>1</sup> in the above-captioned Chapter 11 cases for Borrower Claims, filed its *Sixty-Second Omnibus Objection to Claims (No Liability Borrower Claims)* (the "**Objection**") with the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"). The basis for the claim objection applicable to you is identified in the table above in the column entitled "**Reason for Disallowance**".

The Objection requests that the Bankruptcy Court expunge, and/or disallow one or more of your claims listed above under PROPOSED CLAIM(S) TO BE DISALLOWED AND EXPUNGED on the ground that the claim(s) is a No Liability Borrower Claim. **Any claim that**

<sup>1</sup>A list of the debtors in these Chapter 11 cases (the "**Debtors**"), along with the last four digits of each Debtor's federal tax identification number, is available on the Debtors' website at <http://www.keelle.net/rescap>.

**the Bankruptcy Court expunges and disallows will be treated as if it had not been filed and you will not be entitled to any distribution from the Trust on account thereof.**

In the Objection, the Trust identifies types of documents that it examined to determine whether your claim should be allowed. You have the right to examine such documents. If you wish to review the relevant documents used by the Trust, then please contact its counsel, Jordan A. Wishnew, at 212-468-8000, and arrangements can be made to provide such documents to you either by hard copy or electronically. Generally, the production of documents by the Trust will be subject to all applicable privileges, including without limitation, attorney-client, and where necessary, will be subject to a mutually acceptable Confidentiality Agreement.

If you do NOT oppose the disallowance and expungement of your claim(s) listed above under PROPOSED CLAIM(S) TO BE DISALLOWED AND EXPUNGED, then you do NOT need to file a written response to the Objection and you do NOT need to appear at the hearing.

**If you DO oppose the disallowance and expungement of your claim(s) listed above under PROPOSED CLAIM(S) TO BE DISALLOWED AND EXPUNGED, then you MUST file with the Bankruptcy Court and serve on the parties listed below a written response to the Objection that is received on or before 4:00 p.m. Prevailing Eastern Time on May 22, 2014 (the "Response Deadline").**

Your response, if any, must contain at a minimum the following: (i) a caption setting forth the name of the Bankruptcy Court, the names of the Debtors, the case number and the title of the Objection to which the response is directed; (ii) the name of the claimant and description of the basis for the amount of the claim; (iii) a concise statement setting forth the reasons why the claim should not be disallowed or expunged, for the reasons set forth in the Objection, including, but not limited to, the specific factual and legal bases upon which you will rely in opposing the Objection; (iv) all documentation or other evidence of the claim, to the extent not included with the proof of claim previously filed with the Bankruptcy Court, upon which you will rely in opposing the Objection; (v) the address(es) to which the Trust must return any reply to your response, if different from that presented in the proof of claim; and (vi) the name, address, and telephone number of the person (which may be you or your legal representative) possessing ultimate authority to reconcile, settle, or otherwise resolve the claim on your behalf.

The Bankruptcy Court will consider a response only if the response is timely filed, served, and received. A response will be deemed timely filed, served, and received only if the original response is actually received on or before the Response Deadline by (a) the chambers of the Honorable Martin Glenn, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408; (b) counsel to the ResCap Borrower Claims Trust, Morrison & Foerster LLP, 250 West 55th Street, New York, NY 10019 (Attention: Gary S. Lee, Norman S. Rosenbaum, Jordan A. Wishnew and Jonathan M. Petts); (c) the Office of the United States Trustee for the Southern District of New York, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014 (Attention: Linda A. Riffkin and Brian S. Masumoto); and (d) The ResCap Borrower Claims Trust, Polsinelli PC, 900 Third Avenue, 21st Floor, New York, NY 10022, (Attn: Daniel J. Flanigan).

**A hearing will be held on June 10, 2014 to consider the Objection.** The hearing will be held at **10:00 a.m.** Prevailing Eastern Time in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, Courtroom 501. If you file a written response to the Objection, you should plan to participate in the hearing. The Trust, however, reserves the right to continue the hearing on the Objection with respect to your claim(s). If the Trust does continue the hearing with respect to your claim(s), then the hearing will be held at a later date. If the Trust does not continue the hearing with respect to your claim(s), then a hearing on the Objection will be conducted on the above date.

**You may participate in a hearing telephonically provided that you comply with the Bankruptcy Court's instructions, which can be found on the Bankruptcy Court's website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).**

Whether or not the Bankruptcy Court disallows or expunges your claim(s) listed above under PROPOSED CLAIM(S) TO BE DISALLOWED AND EXPUNGED, the Trust has the right to object on other grounds to the claim(s) (or to any other claims you may have filed) at a later date. You will receive a separate notice of any such objections.

If you wish to view the complete Objection, you can do so on the Bankruptcy Court's electronic docket for the Debtors' chapter 11 cases, which is posted on the internet at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov) (a PACER login and password are required and can be obtained through the PACER Service Center at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)), or for free at <http://www.kccllc.net/rescap>. If you have any questions about this notice or the Objection, or if you would like to request a complete copy of the Objection at the Trust's expense, please contact the Debtors' approved claims agent Kurtzman Carson Consultants, LLC at (888) 926-3479.

**CLAIMANTS SHOULD NOT CONTACT THE CLERK OF THE BANKRUPTCY COURT TO DISCUSS THE MERITS OF THEIR CLAIMS.**

DATED: April 22, 2014  
New York, New York

**MORRISON & FOERSTER LLP**  
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Facsimile: (212) 468-7900  
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Jordan A. Wishnew

ATTORNEYS FOR THE RESCAP  
BORROWER CLAIMS TRUST